

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DOMINIC MAXWELL,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:07-CV-1965 (CEJ)
)	
STEVE LARKINS,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This habeas corpus action is before the Court upon the Report and Recommendation of United States Magistrate Judge Lewis M. Blanton, to whom the matter was referred pursuant to 28 U.S.C. § 636(b). On February 24, 2011, the Magistrate Judge issued a Report and Recommendation, recommending that the petition of Dominic Maxwell for a writ of habeas corpus under 28 U.S.C. § 2254 be denied. Petitioner was granted additional time in which to file objections to the Report & Recommendation. However, no objections have been filed and the deadline for doing so has now passed.

The Court agrees that petitioner's claim is non-cognizable in a federal habeas corpus proceeding and therefore accepts the recommendation that the petition be denied. However, the Court believes that no certificate of appealability should issue, because the petitioner has not made a substantial showing of the denial of a federal constitutional right.

Accordingly,


IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge Lewis M. Blanton [#14] is sustained, adopted, and

incorporated herein with respect to the denial of the petition of Dominic Maxwell for a writ of habeas corpus.

IT IS FURTHER ORDERED that the Report and Recommendation is rejected with respect to the issuance of a certificate of appealability.

IT IS FURTHER ORDERED that petitioner has failed to make a substantial showing of the denial of a constitutional right and the Court will not issue a certificate of appealability. See Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997).

A separate judgment in accordance with this Memorandum and Order will be entered this same date.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 29th day of March, 2011.